

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the "Ministry") reconsideration decision dated April 22, 2013 which denied the appellant income assistance because he failed to comply with the conditions in his employment plan and did not meet the legislated criteria of section 9 of the Employment and Assistance Act (EAA). The Ministry held that the appellant did not demonstrate that he had made a reasonable effort to comply with the conditions of the employment plan.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 9

## PART E – Summary of Facts

**Evidence** - The evidence before the Ministry at the time of the reconsideration decision included the following:

- The appellant's job search journal for February and March that was submitted to the Ministry which includes twenty-two pages of internet job postings with information about the potential opportunities including the name of the employer, the location of work, title of the position and information about the type of work opportunity.
- April 3 2013 letter to the appellant from the Ministry which states that ministry clients who are expected to work must comply with the terms of their employment plan to remain eligible for assistance, that the appellant had not followed through on the conditions in his employment plan, and that specifically he had not submitted a suitable work search in a timely manner that meets the criteria of an adequate work search. Finally it states that since he had not met the work-related requirements that he is no longer eligible for income assistance.
- January 29 2013 Ministry Employment Plan signed by the appellant which outlines the details of his employment plan in section 3 d) as follows: update and distribute his resume to all potential employers; seek out and pursue all available resources and employment opportunities, eg. Employment Assistance Services providers, Service Canada, internet, library, newspaper, community agencies and cold calling potential employers, etc. ; record his monthly work search activities on the ministry for (SD0077) and provide these to the ministry upon request; utilize all personal contacts to assist work search; aware that the ministry expectation is that he spend 25 hours minimum per week on work search activities; submit his work search record by the 5<sup>th</sup> of every month showing 5 activities/day and 5 days/week; and able to contact the Employment Program of BC for self service resources.
- April 9 2013 Employment and Assistance Request for Reconsideration Form section 3 the appellant's states that he has been disqualified for a failure to provide a job search form in a suitable format, that this format has been valid in the past and that he asks why it is no longer valid.
- April 9 2013 Employment and Assistance Request for Reconsideration Form section 2 Ministry comments as follows:
  - March 29 2013 the appellant was advised that he was currently noncompliant with the terms of his employment plan due to not submitting the required work search activity report and explained the obligations of an adequate work search and the consequences of noncompliance with his employment plan;
  - April 3 2013 the appellant submitted his work search activity list that was due on March 5<sup>th</sup>. The 23 pages package that the appellant submitted only listed the available jobs from an online resource. He did not list any activities taken regarding these submitted job postings. The ministry cannot determine if the appellant applied for any of these jobs postings, or what kind of follow up action was taken for any jobs he applied for.
- April 22 2013 Employment and Assistance Reconsideration Decision background section in which the Ministry outlines additional information from the files as follows:
  - The appellant is a year old single employable recipient with no dependents;
  - March 18, 2013 the Ministry completed a work search review on his file and noted that he had not submitted a work search activities record since signing the employment plan on January 29, 2013;
  - March 21, 2013 the appellant contacted the ministry to enquire about his income assistance cheque, the Ministry explained that he had no submitted a work search activities record for the

time period of February 5 to March 5, 2013 and the appellant informed the Ministry that he had a job search list and would submit it;

- o April 8, 2013 the appellant contacted the Ministry and was informed that he was denied income assistance for failing to comply with the conditions of his employment plan; and

**Additional Evidence**

In the Notice of Appeal dated April 26, 2013 the appellant states that all he has stated in the appeal was valid but he does have extra detail for consideration. At the hearing, the appellant provided additional verbal evidence that he was not given enough direction about the adequate format of the required work search activities record other than the Ministry form SD0077 and that he needed to have more information about the type of format that is required for the work search activities record. He stated that he had applied to most of the job postings he submitted in the work search journal on April 3 2013 by sending out emails and his resume. He also stated that he dropped off a work search record in a similar format to a Ministry representative during the period of January 9 to March 21.

At the hearing the Ministry stood by the reasoning and confirmed the information provided in the reconsideration decision. The Ministry clarified that the Ministry records did not indicate receipt of a submission from the appellant before March 21, 2013. The Ministry also clarified to the panel that the appellant was not given the opportunity to resubmit his work search activity record after he was told on April 3 that he had not met the work-related requirements that he is no longer eligible for income assistance.

The panel determined that the additional verbal evidence was admissible under section 22 (4) of the EAA as it is in support of the information that was before the Ministry at the time of its reconsideration decision.

## PART F – Reasons for Panel Decision

### Issue to be Decided

The issue under appeal is whether the Ministry's reconsideration decision which denied the appellant income assistance because he failed to comply with the conditions in his employment plan and did not meet the legislated criteria of section 9 of the Employment and Assistance Act (EAA) is reasonably supported by the evidence or whether it is reasonable application of the applicable enactment in the circumstances of the appellant.

### Legislation

The applicable legislation is as follows:

### EAA Section 9:

#### Employment plan

- 9 (1) For a family unit to be eligible for income assistance or hardship assistance, each applicant or recipient in the family unit, when required to do so by the minister, must
- (a) enter into an employment plan, and
  - (b) comply with the conditions in the employment plan.
- (2) A dependent youth, when required to do so by the minister, must
- (a) enter into an employment plan, and
  - (b) comply with the conditions in the employment plan.
- (3) The minister may specify the conditions in an employment plan including, without limitation, a condition requiring the applicant, recipient or dependent youth to participate in a specific employment-related program that, in the minister's opinion, will assist the applicant, recipient or dependent youth to
- (a) find employment, or
  - (b) become more employable.
- (4) If an employment plan includes a condition requiring an applicant, a recipient or a dependent youth to participate in a specific employment-related program, that condition is not met if the person
- (a) fails to demonstrate reasonable efforts to participate in the program, or
  - (b) ceases, except for medical reasons, to participate in the program.
- (5) If a dependent youth fails to comply with subsection (2), the minister may reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.
- (6) The minister may amend, suspend or cancel an employment plan.
- (7) A decision under this section
- (a) requiring a person to enter into an employment plan,
  - (b) amending, suspending or cancelling an employment plan, or
  - (c) specifying the conditions of an employment plan
- is final and conclusive and is not open to review by a court on any ground or to appeal under section 17 (3) [*reconsideration and appeal rights*].

The Ministry argues that by signing the employment plan the appellant confirmed that he read, understood and agreed with the conditions specified in the plan and that he failed to submit an adequate work search activities record. The Ministry explains that while the appellant submitted a list of job postings showing a list of potential employers, he failed to record when and where he submitted his resume and what was the outcome of the search. Also that as a result, the Ministry is unable to verify that he had completed the minimum required work search activities of 5 contacts each day 5 days a week. The Ministry finds that the appellant did not demonstrate that he made a reasonable effort to comply with the conditions of his employment plan or that he has any mitigating circumstances that prevented him from complying with the conditions of his employment

plan therefore he is not eligible for assistance as per section 9 the EAA.

At the hearing, the appellant stated that he did not receive enough information about was is an adequate worked search record format. He does acknowledge that he did receive the Ministry form SD0077 as outlined in his employment plan and did not state why he chose not to use the form. The appellant argues that the work search record format he submitted to the Ministry provided on April 3 2013 has been valid in the past and that he thinks it is reasonable that he assumed it would be valid again. He also stated that he had applied to most of the job postings he submitted in the work search journal on April 3 2013 by sending out emails and his resume and did not provide any written evidence of these emails or any responses. Finally, he stated that he dropped off a work search record in a similar format to a Ministry representative during the period of January 9 to March 21 and yet the Ministry did not have a copy of this submission and the appellant did not provide a copy of it to the panel.

### **Panel Findings**

Given that the Ministry explained to the appellant the conditions of the employment plan as outlined in the details of section d) of the employment plan, that the appellant signed and agreed with the conditions specified in the plan, and that he received a work search activities SD0077 form, the panel finds that it is reasonable that the appellant was advised of the requirements to submit an adequate work search activities record.

The panel finds that the appellant did not provide evidence that he complied with the following conditions from his employment plan: an update on the distribution of his resume to all potential employers; how he pursued all available resources and employment opportunities, eg. Employment Assistance Services providers, Service Canada, internet, library, newspaper, community agencies and cold calling potential employers, etc.; a record of his monthly work search activities on the ministry form (SD0077); how he utilized his personal contacts to assist work search; that he spent 25 hours minimum per week on work search activities; and that he submitted a work search record by the 5<sup>th</sup> of every month showing 5 activities/day and 5 days/week.

### **Panel Decision**

The panel finds that the Ministry determination that the appellant was ineligible for further assistance because he failed to meet the requirements of EAA Section 9 requiring him to comply with the conditions of his employment plan was a reasonable application of the applicable legislation. Therefore the panel confirms the Ministry's reconsideration decision.